

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THOMAS FALCON SUTHERLAND,

Defendant.

CR 18-55-GF-BMM-JTJ

**FINDINGS AND  
RECOMMENDATIONS**

**I. Synopsis**

Defendant Thomas Falcon Sutherland (Sutherland) has been accused of violating the conditions of his supervised release. Sutherland admitted alleged violations 1 and 3. Sutherland denied alleged violation 2. The Court dismissed alleged violation 2 on the government's motion. Sutherland's supervised release should be revoked. Sutherland should receive a custodial sentence of time served, with no supervised release to follow.

**II. Status**

Sutherland pleaded guilty to Assault Resulting in Serious Bodily Injury on September 11, 2018. (Doc. 18). The Court sentenced Sutherland to 27 months of custody, followed by 2 years of supervised release. (Doc. 29). Sutherland's

current term of supervised release began on November 28, 2020. (Doc. 47 at 1).

### **Petition**

The United States Probation Office filed an Amended Petition on December 6, 2021, requesting that the Court revoke Sutherland's supervised release. (Doc. 47). The Amended Petition alleged that Sutherland had violated the conditions of his supervised release: 1) by consuming alcohol; and 2) by committing another crime on two separate occasions.

### **Initial appearance**

Sutherland appeared before the undersigned for his initial appearance on May 30, 2023. Sutherland was represented by counsel. Sutherland stated that he had read the petition and that he understood the allegations. Sutherland waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

### **Revocation hearing**

The Court conducted a revocation hearing on May 30, 2023. Sutherland admitted that he had violated the conditions of his supervised release: 1) by consuming alcohol; and 2) by committing the crime alleged in violation 3. Sutherland denied alleged violation 2. The Court dismissed alleged violation 2 on the government's motion. The violations that Sutherland admitted are serious and

warrant revocation of Sutherland's supervised release.

Sutherland's violations are Grade B violations. Sutherland's criminal history category is II. Sutherland's underlying offense is a Class B felony. Sutherland could be incarcerated for up to 24 months. Sutherland could be ordered to remain on supervised release for up to 21 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 6 to 12 months.

### **III. Analysis**

Sutherland's supervised release should be revoked. Sutherland should receive a custodial sentence of time served, with no supervised release to follow. This sentence is sufficient but not greater than necessary.

### **IV. Conclusion**

The Court informed Sutherland that the above sentence would be recommended to Chief United States District Judge Brian Morris. The Court also informed Sutherland of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Sutherland that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Sutherland stated that he wished to waive his right to object to these Findings and

Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court **FINDS:**

That Thomas Falcon Sutherland violated the conditions of his supervised release by consuming alcohol, and by committing the crime alleged in violation 3.

The Court **RECOMMENDS:**

That the District Court revoke Sutherland's supervised release and commit Sutherland to the custody of the United States Bureau of Prisons for a term of time served, with no supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court

judge.

DATED this 31st day of May, 2023.



John Johnston  
United States Magistrate Judge